

**IMPACT ANALYSIS**  
**OFFICE OF THE BANKRUPTCY COURT CLERK**  
**THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT**  
**OF 2005, S. 256**

<p><b>Means Testing</b></p>	<p><b>Section 707. <i>Dismissal of a case or conversion to a case under Chapter 11 or 13</i></b></p> <p><b><u>Primary Reference(s)</u></b></p> <p><b>707 (b)(2)(A)(i)thru (A)(iv)</b> - Means Test - income and expense calculations</p> <p><b><u>Related Reference(s)</u></b></p> <p><b>707 (b)(2)(C)</b> Statement of current monthly income and calculations required</p> <p><b>707 (b)(2)(D)</b> Disabled Veteran exception to means testing</p> <p><b>Section 704</b> <i>Duties of Trustee</i></p> <p><b>704 (b)(1) (A)</b> UST reviews all materials filed and not later than 10 days after the first meeting of creditors, file with the court a statement as to whether there is presumed abuse under section 707(b);</p> <p><b>704 (b)(1)(B)</b> Not later than 5 days after receiving a statement from UST, the Court provides a copy of statement to all creditors</p> <p><b>704 (b)(2)</b> UST shall not later than 30 days after the date of the filing of a statement under (1), either file a motion to dismiss or convert under 707(b) or statement setting forth reasons such a motion is not appropriate if abuse presumed</p> <p><b>S.256 Section 1232 <i>Bankruptcy Forms</i></b>  B. Rules will prescribe form for statement required under 11 USC 707(b)(2)(C)</p>	
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## Automatic Dismissals

### Section 521. Debtor's Duties

#### Primary Reference(s)

**521 (i)(1)** - “automatic” dismissal on the 46<sup>th</sup> day after the date of filing of the petition, if info required under subsection (a) is not provided by Debtor.

#### Related Reference(s)

**521 (a)(1)** The Debtor shall file. . .

**521 (e)(2)(B)-(C)**

**521 (i)(2)** subject to para (4) any party in interest may request that the Court enter an order dismissing the case.

**521 (i)(3)** subject to para. (4) the Court may allow the Debtor an additional period not to exceed 45 days for extending the period for filing the required info if request is made within original 45 day period.

**521 (i)(4)** the court may decline to dismiss the case if the court finds good faith attempt to file all the info required by subsection (a)(1)(B)(iv)

**Section 707 (a)(3)** requires Debtor to file w/in 15 days the section 521 info.

#### **S.256 Section 1501 Effective Date**

(a) Effective Date - Except as otherwise provided in the Act, the amendments take effect 180 days after the date of enactment of the Act.

(b) Application of Amendments -

(1) In General - Except as otherwise provided in the Act, and para. (2), the amendments made by the Act shall not apply with respect to cases commenced under title 11, before the effective date of the Act.

New Chapter 13  
Requirements

**Section 1328. *Discharge***

**Primary Reference(s)**

**1328 (a)** Debtor's certification as to payment of support obligations

**1328 (f)(1)** Prior discharge in ch. 7, 11 or 12 during 4 year period

**1328 (f)(2)** Prior discharge in ch. 13 during 2 year period

**1328 (g)(1)** Instructional course requirement

**1328 (h)** Pendency of proceeding in which debtor may be found guilty of a felony\*

**Related Reference(s)**

**Section 1324. *Confirmation hearing***

1324 (b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.

**Section 1228(f) Same as 1328(h)\***

**S.256 Section 1501 Effective Date**

1501(b) \*Section 1328(h) and 1228(f) effective as to cases filed on or after date of enactment

Chapter 15	<p><b>Section 1501. <i>Purpose and scope of application</i></b></p> <p><b><u>Primary Reference(s)</u></b></p> <p><b>Section 1502.</b> Definitions (7) “recognition”</p> <p><b>Section 1511.</b> Commencement of a Case under Section 301 or 303</p> <p><b>Section 1515.</b> Application for recognition</p> <p><b>Section 1517.</b> Order granting recognition</p> <p><b><u>Related Reference(s)</u></b></p>		
Direct Appeals	<p><b>28 USC Section 158. <i>Appeals</i></b></p> <p><b><u>Primary Reference(s)</u></b></p> <p><b>158 (d)(2)(A)</b> Includes <i>sua sponte</i> certification</p> <p><b>158 (d)(2)(B)</b></p> <p><b>158 (d)(2)(C)</b> Short statement of basis for certification</p> <p><b>158 (d)(2)(E)</b></p> <p><b><u>Related Reference(s)</u></b></p> <p><b>S.256 Section 1233. <i>Direct Appeals of Bankruptcy Matters to Courts of Appeals</i></b> (b) Procedural Rules - pending promulgation of Bankruptcy Rules, temporary procedural rules are set forth</p>		

<p>Tax Returns</p>	<p><b>Section 521. <i>Debtor's duties</i></b></p> <p><b><u>Primary Reference(s)</u></b></p> <p><b>521 (e)(2)(A)</b> Tax returns for prepetition periods</p> <p><b>521 (f)(1)</b> Tax returns for postpetition periods</p> <p><b>521 (f)(2)</b> Tax return filed postpetition for prepetition period</p> <p><b>521 (f)(3)</b> Amendments to tax returns</p> <p><b>521 (g)(2)</b> (subject to BAPCPA Sec 315(c))</p> <p><b><u>Related Reference(s)</u></b></p> <p><b>521 (j)(1)</b> Taxing agency enforcement</p> <p><b>521 (j)(2)</b> Taxing agency enforcement</p> <p><b>Fed. R. Bankr.P. 5005 (a)(1)</b> - May apply where Debtor mistakenly files tax return with the Court</p>			
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Automatic Stay-  
Lease Payments

**Section 362.. *Automatic Stay***

**Primary Reference(s)**

**362 (l)**

**362 (b)(22)**

**362 (l)(1)(B)** Deposit of rent with Clerk

**(l)(2)**

**(l)(3)(A)**

**(l)(3)(B)(ii)**

**(l)(4)(B)**

**(l)(5)(D)** Clerk's transmittal of rent deposit

**(m)(2)(A)-(B)**

**(m)(2)(D)(ii)**

**(m)(3)(A)-(B)**

**Related Reference(s)**

Credit Counseling	<p><b>Section 109. <i>Who may be a debtor</i></b></p> <p><b><u>Primary Reference(s)</u></b></p> <p><i>109 (h)</i> Budget and credit counseling</p> <p><b><u>Related Reference(s)</u></b></p> <p><b>Section 111(a)</b> Clerk to maintain list of budget and credit counselors</p>		
Financial Management Training	<p><b>Section 727. <i>Discharge</i></b></p> <p><b><u>Primary Reference(s)</u></b></p> <p><b>727 (a)(11)</b> Instructional course requirement</p> <p><b><u>Related Reference(s)</u></b></p> <p><b>S.256 Section 105 <i>Debtor Financial Management Training Test Program</i></b></p>		

<p>Reaffirmation Agreements</p>	<p><b>Section 524. <i>Effect of Discharge</i></b></p> <p><b><u>Primary Reference(s)</u></b></p> <p><b>524 ( c )</b>  <b>524 ( c )(2)</b> Disclosures</p> <p><b>524 (k)(1)</b> Detailed requirements  <b>524 (k)(2)</b>  <b>524 (k)(3)</b> specific disclosures  <b>524 (k)(4)</b> form of agreement  <b>524 (k)(5)</b> declaration  <b>524 (k)(6)</b> statement in support  <b>524 (k)(7)</b> motion for approval of agreement  <b>524 (k)(8)</b> contents of court order</p> <p><b>524 (m)(1)</b> where presumption of hardship exists  <b>524 (m)(2)</b> exception for credit unions</p> <p><b><u>Related Reference(s)</u></b></p>		